

Summary of 2020 Proposed Revisions to Model Chapter 13 Plan in the Bankruptcy Court for the Eastern District of Wisconsin

*****Note: stylistic changes have been made throughout the revised model plan, even when not specifically noted in this summary.**

*****Comments due by November 30, 2020, to Mike Keepman at
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Part 1—Notices:

- Adds definition of “debtor” and “estate”.
- Clarifies that the trustee will only pay creditors who hold allowed claims that are provided for by the plan.
- Stylistic changes.

Part 2—payments to trustee and plan length:

- Introductory Paragraph:
 - States that all plan terms relating to debtor’s submission of funds to the trustee as is necessary to execute the plan must be contained in Part 2.
 - States that each debtor is responsible for making all payments required by the plan, including wages deducted through payroll orders.
 - Provides that the debtor may change the manner of payment to the trustee by filing new Local Form 9011 requesting change (for example, when a debtor has a new employer to which a payroll order must be issued).
 - Prohibits debtor from changing the amount the plan payment except by filing amendments/modifications to the plan.
- Subpart 2.1

- Brings back designation of debtor as under/over-median to aid in reviewing the plans.
- Subpart 2.2
 - Requires all plan payments to be stated in monthly amounts, with another section providing detail regarding how the payroll order will work (weekly, bi-weekly, etc.) to be made by Debtor 1 and Debtor 2 (either directly or through payroll orders).
 - Provides a new provision for step payments and provides more detail for payments, including when the payments begin.
 - Stylistic changes and renumbering of existing subparts.

Part 3—Treatment of Secured Claims:

- Introductory paragraph to Part 3 stating provisions common to subparts 3.1, 3.2, and 3.3:
 - Moves language from Parts 3.1 and 3.2 to the introductory paragraph of Part 3 regarding payments and payments of arrears.
 - Adds language to clarify that if a secured creditor obtains relief from the stay, then the plan will be deemed not to provide for that creditor's secured claims (beyond the payments actually made to the creditor as of that date) or any further payment of those claims.
 - Provides for payment of Rule 3002.1(c) notices.
- Subpart 3.1
 - Removes the "Current installment payment" column in Part 3.1 to prevent confusion.
 - Revised language.
- Subpart 3.2

- Clarifies that Subpart 3.2 only applies to requests for valuation of security and modification of unsecured claims held by non-governmental units.
- Further provides that valuation of a secured government claim must be made by claim objection or motion and not in the chapter 13 plan.
- Revised language.
- Clarifies that the lien release upon discharge is limited to the lien on the debtor's and the estate's interest in the collateral.
- Subpart 3.3
 - Now covers secured claims excluded from §506, payment of fully secured claims, and payment of secured claims held by governmental units.
 - Requires the debtor to state the interest rate required by 11 U.S.C. §511 for tax claims of governmental units.
 - Clarifies that the lien release upon discharge is limited to the lien on the debtor's and the estate's interest in the collateral.
 - Revised language.
- Subpart 3.5
 - modified language on effect of surrender provision to abandon and provide for payment of claim as unsecured claim in the manner provided for in Part 5.
 - Stylistic changes.

Part 4—Treatment of Fees and Priority Claims:

- Subpart 4.3
 - Clarifies that “Unless otherwise ordered, allowed administrative expenses for attorney’s fees will be paid by the trustee.”
- Stylistic changes.

Part 5—Treatment of Nonpriority Unsecured Claims:

- Introductory Paragraph to Part 5:
 - Clarifies that any payments on future allowed administrative expenses, including attorney’s fees incurred on debtor’s behalf, will reduce the amounts not yet paid to non-priority unsecured claims once that administrative claim is allowed, but the amounts to be paid to non-priority unsecured creditors will in no event be reduced below the amount necessary to meet the liquidation amount listed in subpart 5.1.

Part 7—Vesting of Property of the Estate and Order of Distribution:

- Subpart 7.1: Modifies the options for revesting property of the estate.
- Subpart 7.2: adds uncontested and court-allowed fees, expenses and charges filed pursuant to Rule 3002.1(c) or authorized by court order.

Part 8—Mortgage Modification Mediation and Other Nonstandard Plan Provisions:

- Added introduction paragraph and language.
- Adds new Subpart 8.2: New language regarding Mortgage Modification Mediation Program participation.
 - Plan provision is not effective unless the debtor files and serves a motion for MMM no later than 7 days before the first meeting of creditors or such other time as the court for cause orders.
 - States that if the debtor and creditor fail to reach an agreement, the debtor surrenders the Mediation Property effective 30 days after the mediator files the report or such other date as the court for cause orders. That date

is the “Date of Surrender” and on that date the stay is deemed terminated as to the Mediation Property only, any §1301 co-debtor stay is terminated, the Mediation Property is deemed abandoned under §554(b) and the Mediation Creditor’s allowed claim will be paid as an unsecured claim in the manner provided for in Part 5.

- Stylistic changes.